

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

FLASH GAS AND OIL SOUTHWEST, INC.

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

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* **Enforcement Tracking No.**
* **WE-CN-02-0850**

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* **Agency Interest No. 87795**

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SETTLEMENT

The following Settlement is hereby agreed to between Flash Gas and Oil Southwest, Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation who owns and/or operates an oil and gas production barge facility located in the Delta Farms Field in Larose, Lafourche Parish, Louisiana (“the Facility”). The Respondent has a Louisiana Pollutant Discharge Elimination System (LPDES) general permit number LAG 330188 issued April 15, 1998. This permit does not grant the authority to discharge produced water, free oil, and/or other unauthorized substances to waters of the state.

II

On November 13, 2002, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-02-0850, to Respondent, which was based upon the following findings of fact:

An inspection conducted by the Department on or about December 11, 2000, indicated that the Respondent did cause and/or allow the unauthorized discharge of oil to Bayou Perot, waters of the state. There was a boom surrounding the facility; however, a visible sheen was observed outside of the boom. The Respondent's unauthorized discharge is in violation of La. R.S. 30:2075, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, LAS 33:IX.708.C.1.a, and LAC 33:IX.2311.A.

An inspection conducted by the Department on or about December 11, 2000, indicated that there were numerous corrosion holes in the steel curbing around the barge. At the time of the inspection, there was accumulated fluid draining from within the containment. The Respondent's failure to have adequate secondary containment is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.907.D.

The Respondent was issued Warning Letter WE-L-01-0133 on or about December 17, 2001, for areas of concerns noted during an inspection by the Department on or about December 11, 2000. The warning letter stated that the Respondent should take any and all steps to ensure compliance with all environmental regulations at the facility. The Respondent submitted a response to Warning Letter WE-L-01-0133 on or about January 24, 2002.

An inspection conducted by the Department on or about January 10, 2001, indicated that the Respondent did cause and/or allow the unauthorized discharges of oil and produced water to Bayou Perot, waters of the state. Specifically, there was a produced water discharge from a 4 inch steel pipe located on the south side of the barge. There was a visible

sheen observed around the barge. Samples taken by the Department revealed the following values:

Parameter	Sample Result
Chlorides	90,500 parts per million (ppm)
Total Organic Carbon	7.3 ppm
Oil and Grease	11.8 ppm
Benzene	68 parts per billion (ppb)
Toluene	302 ppb
Ethylbenzene	23 ppb
mp-Xylene	188 ppb
o Xylene	99 ppb
1,3,5-TMB	30 ppb
1,2,4-TMB	59 ppb
Naphthalene	30 ppb

The Respondent's unauthorized discharge is in violation of La. R.S. 30:2075, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, LAC 33:IX.708.C.1.a, LAC 33:IX.708.C.2.f.iii, LAC 33:IX.1901.A, and LAC 33:IX.2311.A.1.

An inspection conducted by the Department on or about January 10, 2001, indicated that the Respondent did not report the produced water discharge referenced hereinabove. The Respondent's failure to report a discharge of reportable quantity is in violation of La. R.S. 30:2076 (A) (3), La. R.S. 30:2076 (D), LAC 33:IX.501.A, LAC 33:IX.708.C.1.b.iv, LAC 33:I.3917.A, and LAC 33:I.3925.A.

An inspection conducted by the Department on or about January 10, 2001, indicated that the facility had inadequate secondary containment as noted in the inspection on or about December 11, 2000. The Respondent's failure to have adequate secondary containment is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.907.D.

An inspection conducted by the Department on or about January 12, 2001, indicated that the Respondent had a produced water discharge as noted in the inspection conducted on or about January 10, 2001. There was a visible sheen on the surface near the discharge. Also, a union valve was observed leaking at the Price Well #1 which caused a sheen in the access canal, waters of the state. The on-site gauger tightened the valve during the inspection. The Respondent's unauthorized discharges are in violation of La. R.S. 30:2075, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, LAC 33:IX.708.C.1.a, LAC 33:IX.708.C.2.f.iii, LAC 33:IX.1901.A, and LAC 33:IX.2311.A.

An inspection conducted by the Department on or about January 12, 2001, indicated that the Respondent did not report the produced water discharge referenced hereinabove. The Respondent's failure to report is in violation of La. R.S. 30:2076 (A) (3), La. R.S. 30:2076 (D), LAC 33:IX.501.A, LAC 33:IX.708.C.1.b.iv, LAC 33:I.3917.A, and LAC 33:I.3925.A.

An inspection conducted by the Department on or about August 1, 2002, indicated that the Respondent did cause and/or allow the unauthorized discharge of oily material mixed with stormwater from the barge deck. There was a visible sheen near the barge on Bayou Perot, waters of the state. The Respondent's unauthorized discharges are in violation of La. R.S. 30:2075, La. R.S. 30:2076 (A) (1) (a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.C, LAC 33:IX.501.D, LAC 33:IX.708.C.1.a, LAC 33:IX.708.C.2.f.iii, LAC 33:IX.1901.A, and LAC 33:IX.2331.A.

An inspection conducted by the Department on or about August 1, 2002, indicated that the facility had breaks in the secondary containment which allowed unauthorized

discharges. The Respondent's failure to have adequate secondary containment is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.907.D.

Based on the file review conducted by the Department on or about September 6, 2002, and inspections conducted by the Department on or about December 11, 2000, January 10, 2001, January 12, 2001, and August 1, 2002, the Respondent failed to prepare and/or implement an adequate Spill Prevention and Control (SPC) plan. The Respondent's failure to prepare and/or implement an adequate SPC plan is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.708.C.1.b, and LAC 33:IX.905.B.

The Respondent was issued **WARNING LETTER WE-L-02-0850** on or about September 6, 2002, for areas of concerns noted during an inspection by the Department on or about August 1, 2002. The warning letter stated that the Respondent should take any and all steps to ensure compliance with all environmental regulations at the facility.

III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-02-0850, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$10,500.00), of which FOUR HUNDRED EIGHTEEN AND 70/100 DOLLARS (\$418.70)

represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action the Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Lafourche Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

Colleen Romano

James Muef.

THUS DONE AND SIGNED in duplicate original before me this 28th day
of August, 20 03, in Mandeville, LA 70447

RESPONDENT

BY: Steven G. Haller
(Signature)

Steven G. Haller
(Printed)

TITLE: President.

Amy L. Bennett
NOTARY PUBLIC

WITNESSES:

Terry Adams
Reggie M. Hatch

STATE OF LOUISIANA

Hall Bohlinger, Secretary
Department of Environmental Quality

BY: R. Bruce Hammatt
R. Bruce Hammatt, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 8th day
of January, 20 04, in Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC

Approved: R. Bruce Hammatt
R. Bruce Hammatt, Assistant Secretary

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

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* Agency Interest No. 87795
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This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General, under the provisions of La. R.S. 30:2050.7.

RICHARD P. IEYOUNG
ATTORNEY GENERAL

DATED: 11-7-03

BY: 
ASSISTANT ATTORNEY GENERAL